THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos.6699 & 14857 OF 2006

Dated: 19th April 2007

Between:

Vem Lachireddy

…Petitioner

and

The Divisional Forest Officer, South, Warangal & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos.6699 & 14857 OF 2006

COMMON ORDER:

The petitioner applied for grant of mining lease to quarry Black Granite, for two different extents of land in Sy.No.154 of Gundenga village of Gudur Mandal, Warangal District.

An application, dated 12.1.2004, was filed for grant of lease, over an extent of 1-00 Hectare. On the next day, another application was made for an extent of 2-31 Hectares, in the same Survey number. The Department of Mines and Geology, processed the applications, and on the basis of a no objection certificate issued by the Revenue Department, leases were granted, through proceedings dated 16.2.2006, for 1-00 Hectare of land. The lease, in respect of 2-31 Hectares, was granted, vide proceedings dated 9.1.2006.

Alleging that the officials of the Forest Department are interfering with the quarrying operations, the petitioner filed O.S.No.6 of 2006, in the Court of IV Additional District Judge, Warangal, for the relief of

perpetual injunction. Stating that even while the suit is pending, the respondents are preventing him from carrying mining operation, the petitioner filed W.P.No.6699 of 2006, to declare the action of the Divisional Forest Officer, as well as the Forest Range Officer, Gudur, in interfering with the mining operations over 3-31 Hectares of land in Sy.No.154, as illegal and arbitrary, and prayed for consequential reliefs. W.P.No.14857 of 2006 is filed, to declare the action of the respondents, in taking away the machinery and vehicles from the mining site in Sy.No.154, as illegal and arbitrary.

On behalf of officials of the Forest Department, counter affidavits are filed, opposing the writ petitions. It is stated that the application filed under Order 39 Rule 1 C.P.C. in O.S.No.6 of 2006, was dismissed, on finding that the petitioner has no prima facie case, or balance of convenience, in his favour. It is also alleged that under the guise of carrying on mining operations in Sy.No.154, the petitioner is trying to enter the neighbouring Reserve Forest Block.

Heard Sri D.Prakash Reddy, learned Senior Counsel for the petitioner, and learned Government Pleader for Forest.

The petitioner no doubt was granted quarry lease, over the land in Sy.No.154, of Gundenga village, which is said to be the government land. In fact, the Mandal Revenue Officer and District Collector, issued no objection certificates, for grant of such a lease. The Divisional Forest Officer, however, took the view that instead of carrying on the mining operations in the land in Sy.No.154, he is entering the Compartment No.1122 of Naikpally Reserve Forest Block. Therefore, the controversy boils down to the one of boundary dispute. It would have been a different matter, altogether, had the identification and demarcation been undertaken with the participation of the officials of

the Forest Department, before the lease was granted. Inasmuch as no such exercise was undertaken, this court cannot grant any positive relief or declaration, as prayed for.

Two aspects need to be verified before the petitioner can be granted any relief. The first is whether the land, in respect of which the petitioner was granted lease, consists of any part of neighbouring block of reserve forest. The second is whether the petitioner attempted to enter the reserve forest land, even though the lease is in respect of revenue land alone. Clarity on these aspects would emerge, only if a joint survey with the participation of the officials of the revenue and forest departments, takes place. The petitioner can also be permitted to take part, in it. Till such time, the petitioner cannot enter the land, which is demarcated by the officials of the Forest Department.

For the foregoing reasons, the writ petitions are disposed of, directing that the petitioner may submit an application to the Divisional Forest Officer, Warangal, and Assistant Director of Survey and Land Records, to conduct a joint survey, with reference to the records of the Forest and Revenue Department, to demarcate the land in Sy.No.154 of Gundenga Village. Necessary steps shall be taken by the concerned authorities, within two months from the date of receipt of such application. Till the joint survey is conducted, the petitioner shall not enter the land, which is demarcated as forming part of Compartment No.1122 of Naikpally Reserve Forest Block.

In case, any vehicles or machinery belong to the petitioner are still under seizure, by the officials of the Forest Department, and if no proceedings are initiated under Section 44 of the
A.P. Forest Act, in relation thereto, the concerned officials shall release such vehicles, after obtaining an undertaking from the petitioner that he

shall not enter the forest land, as per the existing demarcation. If any proceedings under Section 44 are initiated, it shall be open to the petitioner, to pursue the same.

There shall be no order as to costs.

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19th April 2007

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